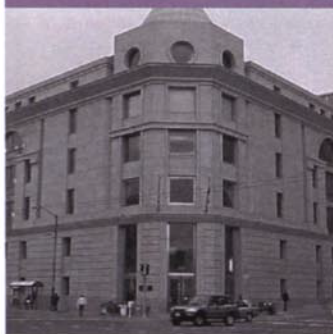


5

Phase Report



Trial Court Facilities

- *Responsibility*
- *Funding*
- *Transition*

October 1, 2001

State of California
Task Force on Court Facilities

On the cover:

Representative California Court Facilities

Clockwise from top left:

Amador County Courthouse, Jackson

Civic Center Courthouse, San Francisco (San Francisco County)

Main Courthouse, Redding (Shasta County)

Central Courthouse, San Bernardino (San Bernardino County)

Lamoreaux Justice Center, Orange (Orange County)

Contra Costa County Courthouse, Martinez



Trial Court Facilities

- ***Responsibility***
- ***Funding***
- ***Transition***

Phase 5 Report

October 1, 2001

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Section 1: Introduction

Report Overview

The Lockyer-Isenberg Trial Court Funding Act of 1997, AB 233 – Escutia and Pringle (Act), chartered the Task Force on Court Facilities to review and report the status of court facilities throughout the state, and to make recommendations for specific funding responsibilities among the entities of government (i.e., state and/or county¹). Government Code section 68073 requires that California’s 58 counties provide trial courts with necessary and suitable facilities for judicial and court support positions created prior to July 1, 1996. Under the Act, the state assumed responsibility for facilities for judicial officers and support staff for any judgeships authorized during the period from January 1, 1998, to June 30, 2001.

This report documents the work of the Task Force and its recommendations regarding the financial and organizational structures necessary to manage trial court facility operations, maintenance, and capital facilities development programs and, specifically, what entity of government should be responsible for these programs. This report also recommends a transition plan and schedule for effecting the Task Force’s recommended changes.

The report is organized as follows:

- **Section 1** provides a brief history of the movement of responsibility for the trial courts from the counties to the state. Additionally, it documents the specific legislative mandates of AB 233 that guided the Task Force’s work.
- **Section 2** presents the Task Force’s recommendation to transfer responsibility for trial court facilities from the counties to the state, and documents the underlying principles and rationale supporting the recommendation.
- **Section 3** focuses on the fiscal issues associated with trial court facilities. The existing court facilities inventory and its related operations and maintenance costs are profiled, as are capital costs for developing new facilities to meet forecasted court needs. Current funding sources and revenue are discussed, and recommendations for future funding are presented.
- **Section 4** describes the implementation steps and schedule recommended for transferring responsibility for trial court facilities from the counties to the state. Short-term implementation principles and organizational recommendations necessary for effecting the proposed transfer are presented. Long-term facilities management policy and organizational recommendations are also outlined in this final section.

Trial Court History

At the beginning of the past century, no building reflected the aspirations of a community more than the local courthouse. “It is our temple of justice,” one official declared at the dedication of

¹ Throughout this report, the terms “county” or “counties” include the City and County of San Francisco.

the Placer County Courthouse on Independence Day, 1898. “It is the repository of our titles, the fortress of our personal and property rights, the fountainhead of our school system, the registry of our births, marriages and deaths, and its inmates stand guard by day and night over the peace and good order of our communities.” For the first 100 years of California’s statehood, county courthouses stood—figuratively but often quite literally as well—at the center of civic life, as monuments to the democratic ideals of early Californians.

Now, as then, the courthouse remains a tangible symbol of the rule of law. It is a primary point of contact between Californians and their government, and is a key component in the access to and delivery of justice. The primary constitutional duty of the courts is to provide access to a fair and impartial forum for the resolution of disputes. Courthouses are public resources that need to be managed in the most efficient and effective way to serve the public.

A courthouse must be accessible, efficient, and convenient, while ensuring the safety of its occupants. A courthouse’s ability—or inability—to separate adversarial parties or criminal defendants from their opponents and victims, as well as from staff and the public, can have a dramatic impact on public safety and the integrity of the judicial system.

From County to State Responsibility

The trial courts evolved as county-level institutions, and each developed in its own way based on the needs of the local judiciary and the culture of the local county government. Over the past decade, several important reforms have transformed the courts into state-funded institutions, and attempts are being made to overcome the inadequate and unequal distribution of court resources, including facilities, among the 58 counties.

Among the most important of these reforms was the Lockyer-Isenberg Trial Court Funding Act of 1997. This legislation provided that court operations would be funded entirely by the state. It gave the Legislature the authority to make appropriations, and assigned to the Judicial Council the responsibility to allocate state funds to the courts. This restructuring of court funding ended a dual system of county and state funding, and provided a more stable, consistent funding source for trial court operations. Counties, however, continue to be responsible for trial court facilities.

Another significant structural court reform of recent years, affecting court operations at all levels, was trial court unification. Prior to June 1998, California’s trial courts consisted of superior and municipal courts, each with its own jurisdiction, judges, and staff. In June 1998, California voters approved Proposition 220, a constitutional amendment permitting the judges in each county to unify their superior and municipal courts into a single superior court. The local trial courts have since unified in all 58 counties. The goals of court unification included improving services to the public, maximizing the use of court resources, and saving taxpayer dollars.

In 2000, the Trial Court Employment Protection and Governance Act (SB 2140 – Burton) was passed by the Legislature and signed into law by Governor Gray Davis. Prior to enactment of this law, people working in the trial courts were county employees. SB 2140 created a new trial court employee personnel system that vested in the local courts the authority to hire personnel and regulate their classification and compensation; establish personnel rules and regulations; engage in collective bargaining; establish retirement programs; and maintain official personnel files. This legislation adopted the recommendations of the Task Force on Court Employees,

which was established by AB 233. SB 2140 was a significant milestone, increasing the independence of the trial courts from their local counties.

Judicial system reforms and the changing expectations of the courts will continue to have substantial impacts on court operations and facilities for the 21st century.

Legislative Mandate

The Act established the Task Force on Court Facilities and charged it with performing a comprehensive review of California's court facilities. This report focuses on the following duties and responsibilities, excerpted from the Act, relating to funding of trial court facilities:

Government Code Section 77653

"The duties of the task force shall include all of the following:

...

- (c) Document the funding mechanisms currently available for maintenance, operation, construction, and renovation of court facilities.

...

- (h) Recommend specific funding responsibilities among the various entities of government for support of trial court facilities and facility maintenance including, but not limited to, full state responsibility or continued county responsibility.
- (i) Recommend funding sources and financing mechanisms for support of court facilities and facility maintenance."

Government Code Section 77654

"The report shall document all of the following:

...

- (3) The currently available funding options for constructing or renovating court facilities.

...

- (7) Recommendations for specific funding responsibilities among the entities of government including full state responsibility, full county responsibility, or shared responsibility.
- (8) A proposed transition plan if responsibility is to be changed.
- (9) Recommendations regarding funding sources for court facilities and funding mechanisms to support court facilities."

Section 2: Responsibility for Trial Court Facilities

Recommendation

The Task Force recommends that the state assume full responsibility for trial court facilities. This recommendation is consistent with previous decisions that transferred financial responsibility for court operations and court personnel from the counties to the state. The Task Force further recommends that transfer of responsibility for court facilities occur over a three-year period, with counties retaining responsibility for facility maintenance costs through Maintenance of Effort (MOE) obligations to the state and payment on existing court facility debt. The reasons that the Task Force came to this conclusion are as follows:

- The judicial branch of state government is wholly responsible for its programs and operations, with the exception of facilities. The judiciary should have the authority, responsibility, and financial capacity for all of the functions related to its operations and staff, including facilities.
- Controlling both operations and facilities ensures that all costs are considered when decisions are made, and ensures economical, efficient, and effective court operations.
- The state, being solely responsible for creating new judgeships, drives the need for new court facilities.
- Equal access to justice is a key underpinning of our society and the rule of law. It is also a paramount goal of the Judicial Council, the policy-making body of the judicial branch. The state can best ensure uniformity of access to all court facilities in California.

Principles Guiding the Task Force's Recommendation

In the course of developing specific funding and transition recommendations that are presented in Sections 3 and 4 of this report, the Task Force was guided by common principles that it believes are essential to the success of any future court facilities management model. The key principles are as follows:

Fiscal Neutrality

Any change of facilities responsibility should be fiscally neutral to both the state and counties. Fiscal neutrality includes:

- Avoiding any fiscal gain or loss to either party at the point in time when responsibility for facilities changes.
- Transferring revenue used for paying debt service, if responsibility for the debt transfers.
- Transferring funds historically used for operating and maintaining existing court facilities if the responsibility for these functions change.
- Holding counties harmless for the cost of deferred maintenance should facilities responsibility change to the state, except when there is either a significant threat to the life, health, or safety of persons occupying the building, or functional deficiencies which in their totality are significant.

- If title to a court facility is transferred, no payment should be made for the capitalized value of buildings and associated land.
- For shared-use facilities, the equity rights of both parties should be based on their proportional share of use in the facility, regardless of which entity (state or county) holds title.

Continuity of Planned Projects

The Task Force applied the principle that capital investment in needed court renovation and construction projects should be vigorously pursued to completion during the time it takes to effect any recommended change in responsibility.

Continuing Local Participation

Because courts and county justice agencies share a unique and close relationship, they should both participate in future court facility decisions regardless of who is fiscally responsible for the facility. Facility decisions affect the operating costs of the courts and county justice agencies, as well as the ability of each to perform its job. Rules regarding the transfer, sale, and future development of court facilities should be established that provide for both court and county participation in siting, minor capital outlay, maintenance, and major capital outlay decisions, while recognizing the rights of the fiscally responsible party.

Unique Facilities

Most trial court facilities have unique attributes, such as their history, location, ownership constraints, indebtedness, and use by more than one agency. Any process for transferring facility responsibility must be designed to address and accommodate court facilities' unique attributes.

Section 3: Funding

Introduction

This section forecasts the trial courts' facility funding needs and resources necessary for the effective management of court facilities, including capital facility planning and development. The funding required is based on:

- Projected facility construction and renovation activity
- Ongoing costs of operating and maintaining existing and future facilities
- Organization and support resources to administer the above activities

Unless otherwise noted, all costs and budget projections are presented in 1999 dollars. No attempt is made to adjust for inflation.

Existing Trial Court Facility Inventory

The existing trial court facilities inventory in California includes 451 facilities totaling 10.1 million usable square feet (USF). Approximately 9.0 million USF (89 percent) are in county-owned buildings, and 1.1 million USF (11 percent) are in commercially leased buildings.

The Task Force distributed a facilities operations survey to all 58 counties. The survey was designed to document the counties' annual expenditures and funding sources for facilities-related operational costs such as building maintenance, cleaning, repairs, groundskeeping, waste removal, utilities, and security. The survey requested information on the amount of outstanding debt, payments, and funding sources for county-owned court facilities that are still financed. Information on the term, rent, and funding sources for commercially leased court facilities was also collected. All cost information was for fiscal year 1998–99 (July 1, 1998, through June 30, 1999). A copy of the survey and a summary of the results are located in Appendix A. The collected data² were used to estimate the baseline cost of operating and maintaining existing trial court facilities throughout the state, including the cost of leasing and minor repairs.

Facilities Support Costs – Operations, Maintenance, and Administration

The facilities support costs are categorized as follows:

- Facility operations and maintenance – cleaning, maintenance, scheduled repairs, road expenses, and groundskeeping costs

² Cost information was not reported for all counties or all facilities. When a county provided actual cost information for some, but not all, buildings, total county operating and maintenance costs were estimated by applying the average county reported cost per square foot to their entire inventory of court space. If a county failed to report costs, their operating and maintenance costs were estimated by applying the statewide average cost per square foot to their inventory of court space.

- Utilities – water/sewer charges, electricity, and gas
- Insurance – property insurance
- Administration and management (strategic planning, department administration, payroll, finance, and program management)

The reported annual cost to maintain and operate court facility space is approximately \$12.35 per USF, exclusive of administration and management.

Management and administrative costs are difficult to isolate and track. The 2000 Building Owners and Managers Association (BOMA) Experience Exchange Report provides a benchmark for these costs. The BOMA report documents commercial and public facilities costs for buildings throughout the United States and Canada. The data reported are calendar year 1999 actual costs expressed in dollars per rentable square foot (RSF). Per the BOMA report, the average administrative cost per RSF for all government buildings in California is \$1.20. Utilizing BOMA's reported rentable-to-usable ratio (1.22:1.00), the administrative cost on a usable-square-foot basis is \$1.46. With this cost added to the reported facilities cost collected by the survey, the total adjusted facilities support cost per usable square foot is \$13.81, as illustrated in Table 3A.

Applying the \$13.81/USF unit cost to all 10.1 million square feet of existing trial court facilities statewide, the annual facilities support expenditures approximate \$140.0 million.

Facility Lease Payments

Based on costs reported in the survey of the counties, the annual average lease cost per usable square foot is \$24.73. When this cost is extended to all 1.1 million USF of leased facilities, the annual lease expense is approximately \$27.6 million.

Debt Service Costs

The survey asked counties to report the use of bonds to finance existing county-owned court facilities, the remaining term of the bonds, the amount of the annual bond payment, and the source of funds for the bond's repayment. Of the 451 existing court facilities, only 68 (approximately 15 percent) are currently financed. These 68 facilities are located in 22 of the 58 counties. Generally the 68 buildings are among the most recently constructed trial court facilities within the statewide system. The results of the survey indicate that an estimated \$95.8 million in total annual debt service is incurred by counties for trial court facilities, with an average of 14.4 years remaining on the debt.

Summary

Table 3A
Estimated Operations, Maintenance, Utilities, and Insurance Costs
for FY 1998/99

Category	Cost / USF	Cost/Year (Millions)
Maintenance	\$9.74	\$98.7
Cleaning		
Scheduled repair and maintenance		
Grounds and roads		
Alterations and repairs – scheduled and unscheduled		
Utilities	\$2.26	\$22.9
Building insurance	\$.35	\$3.5
Survey Facilities Support Cost Total*	\$12.35	\$125.0
Administration**	\$ 1.46	\$14.8
Adjusted Facilities Support Cost Total	\$13.81	\$140.0
Lease Payments* (for 1.1 mil USF)	\$24.73	\$27.6
Annual Debt Service Payments*		\$95.8

Source: * Task Force on Court Facilities' Survey of County Trial Court Facilities Operations and Maintenance Costs

** BOMA 2000 Experience Exchange Report

Present Condition of Court Facilities

As required by the Act, the Task Force conducted an extensive inventory and evaluation of statewide court facilities. A number of well-designed, well-maintained courthouses were found that served the court and community well; they are an appropriate reflection of the importance of the rule of law in our society. Unfortunately, many were found in need of significant maintenance, repair, or renovation. Facility needs commonly identified include the following:

- Physical security improvements, such as separation of in-custody defendant circulation from staff and public, entry control, and perimeter intrusion detection
- In-custody holding facilities
- Life safety improvements, including proper exiting systems, fire sprinklers, and possible seismic upgrades
- Accessibility improvements to comply with Americans with Disabilities Act and Title 24 requirements

- Major building system repairs, such as re-roofing and replacement for heating, ventilation, and air conditioning systems
- Courtroom improvements that ensure jury/spectator separation and proper presentation of cases
- Electrical and data distribution infrastructure necessary for modern technology
- Improved jury assembly space

The study also identified an existing need for additional space to address

- Overcrowding in staff support areas
- Space shortfalls for new administrative positions created as a result of state trial court funding, such as personnel, purchasing, and accounting
- Meeting space for settlement conferences and alternate dispute resolution

More detailed information can be found in the Trial Court Facilities: Inventory, Evaluation, and Planning Options report.

Current Facility Need

To remedy the identified facility problems, the Task Force developed a range of planning options that included altering or adding to existing buildings, and constructing new buildings. The planning process identified potential capital development costs based on a range of specific and practical development options that considered the results of the court facility evaluation, consolidation of court functions, operational efficiencies, geographic growth patterns, and service delivery changes. Generally, two or more options were developed for each county—one that maximizes reuse of existing facilities, and a reduced reuse option that consolidates court operations to increase efficiency by, typically, replacing more of the existing facilities. Planning also considered the need to replace temporary trailers and relocatable buildings; older, outmoded facilities that were neither economical to renovate nor of historic value; and fragmented facilities in leased spaces.

To address current statewide court facility needs, the maximum reuse options have a total of 365 facilities and 12.6 million USF, while the reduced reuse options total 302 facilities and 14.1 million USF. The maximum reuse options include only 56 new buildings, while the reduced reuse options include 96 new buildings. The reduced reuse options provide more usable area in newer and fewer facilities. In most cases, the maximum reuse options feature a significant acceptance of existing conditions, with a concomitant lower level of conformance to the Trial Court Facilities Guidelines (Facilities Guidelines).

Table 3B
Current Facility Need – Increase in Usable Square Feet
(000 USF)

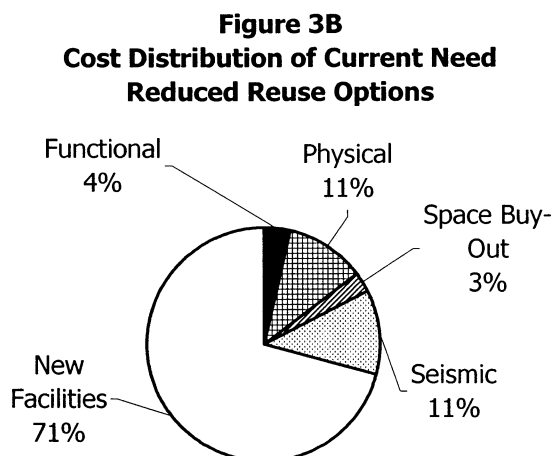
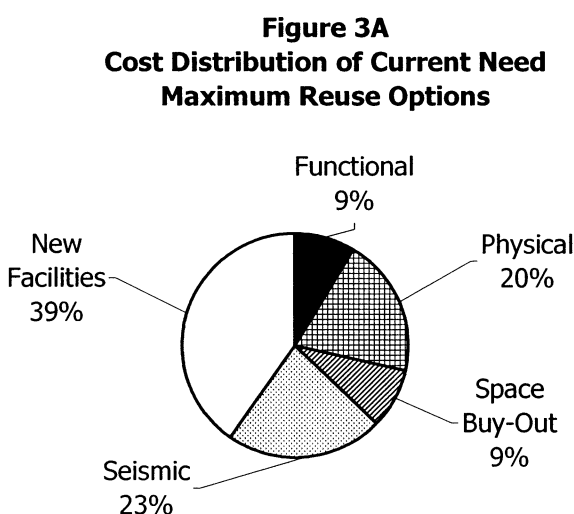
Current Need Scenario	Maximum Reuse	Reduced Reuse
Facilities reused	8,739	7,081
Additions to current facilities	1,384	876
New buildings added	2,503	6,118
Total USF after meeting current need	12,626	14,074
Less: Total USF of existing inventory	(10,138)	(10,138)
Net increase in facilities inventory	2,488	3,936

Source: Trial Court Facilities: Inventory, Evaluation, and Planning Options

Funding required to address current court facility needs falls into two categories:

- Capital outlay funds for renovation, major repair, or expansion of existing facilities and new construction
- Support funds for the ongoing operation, maintenance, and management of the additional facilities inventory

The Task Force's capital funding estimates for the range of planning options for current needs is \$2,808 million to \$3,383 million for the maximum reuse options and reduced reuse options, respectively. The following charts show funding distribution by category for both the maximum reuse and reduced reuse options:



Despite the many problems with their facilities, the trial courts are generally functioning adequately, though often inefficiently and sometimes with risk to staff and public safety. To increase affordability and ensure that the most critical facility deficiencies are addressed in a timely manner, the Task Force recommends that current facility needs be funded over a 10-year period, following an initial ramp-up period. The annual capital funding needed to accomplish that goal would range from \$280.8 million to \$338.3 million.

As space is added to the current court facilities inventory, operations, maintenance, and administrative support would also increase. Applying the adjusted average facilities support costs of \$13.81 per usable square foot for existing facilities to the net added square footage results in an annual increase (over the 10-year period) in funding needed for facilities support costs of \$3.4 million to \$5.4 million. Although not reflected in the preceding calculation, new facilities are often more economical than older facilities to operate and maintain. The table below summarizes the impact of fulfilling the current need.

**Table 3C
Current Need
Capital and Facilities Support Cost Funding**

Current Need	Maximum Reuse		Reduced Reuse	
	Total	Annually (over 10 years)	Total	Annually (over 10 years)
Total USF Added (000 USF)	2,488	249	3,936	394
Total Capital Need (\$ mil)	\$2,808	\$280.8	\$3,383	\$338.4
	\$34.4	\$3.4	\$54.4	\$5.4
Support Cost Increase (\$ mil)	(year 10)	(year 1)	(year 10)	(year 1)

Future Facility Need

While current need is a function of existing conditions, the future facility need is a function of the projected growth of the trial courts. The Task Force forecasted the number of judges and staff each county trial court may have in the future. The forecasts were made for 5-, 10-, 15-, and 20-year increments into the future, using detailed statistical analysis of 18 years of data that examined workload, population, and staffing trends (see the Task Force Phase 3 Report, Forecasts of Future Need). By applying the Facilities Guidelines to the judgeship and staff forecasts, the Task Force projects that an additional 5.807 million USF of court facilities may be needed over the next 20 years. The average annual increase in court facilities to meet new demand on the court system would be 0.290 million USF.

Forecasted needs are for planning purposes only. Future court facility needs will be based on actual growth of the California court system, which is largely driven by the addition of judicial positions and

staff approved through the state budget and legislative processes. Individual projects also require programming and justification prior to approval. Forecasted needs will, therefore, be self-correcting over time.

Like current need, future court facilities needs require both capital outlay funds for construction, and support funds for the ongoing operation and maintenance of added court facilities. The estimated total capital cost of the future need is \$2,075 million, or \$103.8 million annually over a 20-year planning horizon. Applying the adjusted average facilities support costs of \$13.81 per USF for existing facilities to the net added square footage (0.290 million per year) results in an annual increase (for the 20-year period) in funding need for facilities support costs of \$4.0 million. The impact of fulfilling the future need is summarized in the following table.

**Table 3D
Future Need
Capital and Support Cost Funding**

Future Need	Total	Annual (over 20 years)
Total USF added (000 USF)	5,807	0.290
Total capital need (\$ mil)	\$2,075	\$103.8
Support cost increase (\$ mil)	\$80.2 (year 20)	\$4.0 (year 1)

Total Annual Investment Based on Planning Options

While there are innumerable investment strategies that can be developed to fund needed trial court facilities, one strategy is illustrated in Table 3E. It is based on meeting identified current needs over a 10-year period, following an initial ramp-up period, as recommended by the Task Force, with extensive reuse of existing trial court facilities. (For illustrative purposes the maximum reuse option was utilized for this analysis. Appendix C shows the reduced reuse option that results in higher capital costs.) In the model, future need is addressed by straight-line funding over a 20-year period starting in year 5.

Table 3E
Total Funding Needs (\$ Millions)

Option	Total Capital Funding Need	Over # Years	Capital Funding Need/Year	Annual Increase in Support Costs
Current Need (maximum reuse)	\$2,808	10	\$280.8	\$3.4
Future Need	\$2,075	20	\$103.8	\$4.0
Total	\$4,883		Varies by Year	\$7.4

The Task Force recommends giving priority to renovating, replacing, or expanding trial court facilities to address current critical space and functional shortfalls, as illustrated in the model. If funding responsibility transfers to the state, time will be required for the state to mobilize sufficient resources to carry out the capital project workload. For modeling purposes, capital spending for the current need is ramped up over a three-year period, and the future need is first addressed beginning in year five.

Based on these assumptions, the total annual funding requirement for existing facilities—as well as the capital and ongoing facilities support for the current and future need—is illustrated in the chart and table below. Appendix C provides a more detailed model, including key assumptions.

Figure 3F
COST MODEL BEFORE REVENUES
Scenario: Maximum Reuse – Pay-As-You-Go
(\$ Millions)

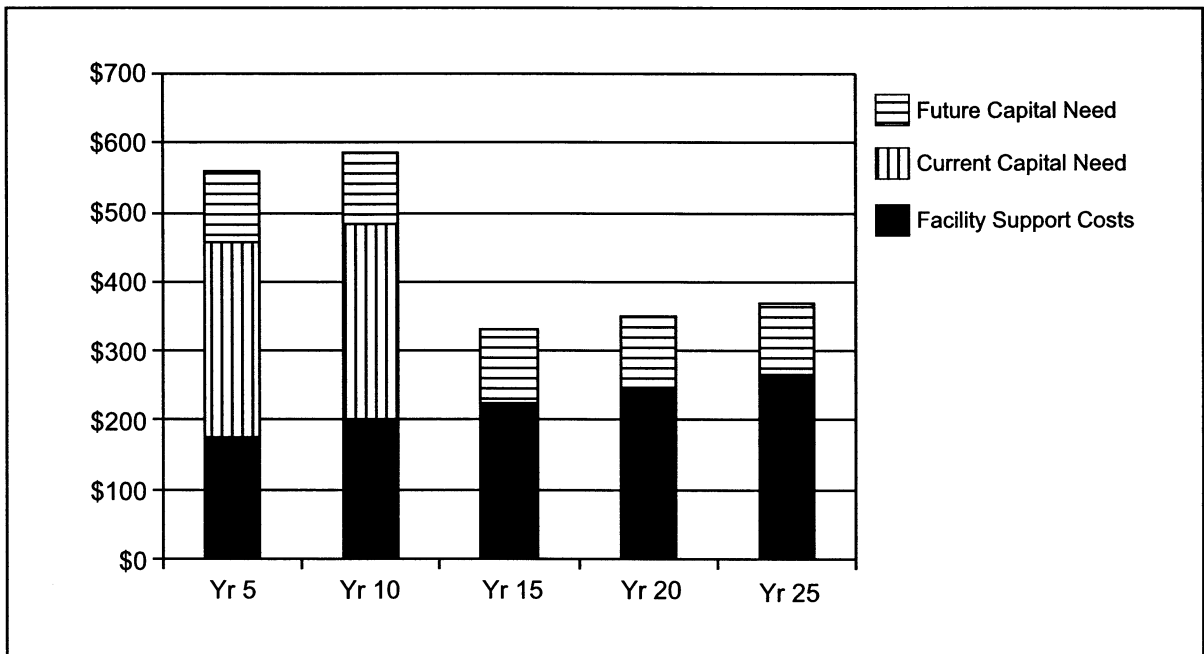


Table 3F
(Data for Figure 3F*)
Annual Cost For Selected Years
(\$ Millions)

	Year 5	Year 10	Year 15	Year 20	Year 25
Facilities inventory (USF, in millions)	11.2	13.9	15.8	17.3	18.7
Current capital need	\$280.8	\$280.8	\$0	\$0	\$0
Future capital need	\$103.8	\$103.8	\$103.8	\$103.8	\$103.8
Total capital need	\$384.6	\$384.6	\$103.8	\$103.8	\$103.8
Facility support costs	\$175.7	\$202.6	\$225.4	\$245.4	\$265.5
Total Funding	\$560.3	\$587.2	\$329.2	\$349.2	\$369.3

* Values charted in Figure 3F are shown in bold.

Adjustment of Capital and Support Costs from 1999 Dollars to 2001 Dollars

All of the costs and analyses throughout this report are expressed in constant 1999 dollars, current as of the time of the survey and analysis. These costs and analyses can be adjusted to year 2001 dollars by using the following published cost indices.

Capital Cost Adjustment

In order to adjust the capital funding needs to 2001 dollars, an escalation factor of 3.74% was computed using the California Construction Cost Index (CCCI) published by the Real Estate Services Division of the Department of General Services. As an example, the effect of this inflation factor is to increase the cost of the maximum reuse options by \$10.5 million per year, from \$280.8 million to \$291.3 million per year, over the 10-year period identified in the analysis for meeting the current need.

Support Cost Adjustment

The facility support costs for operations and maintenance may be adjusted to 2001 dollars using the average of the following three facilities-related indices from the Bureau of Labor Statistics Producer Price Index: (1) building cleaning and maintenance services (Series Id PCU 7349); (2) operators and lessors of nonresidential buildings (Series Id PCU 6512); and (3) maintenance and repair construction (Series Id PCU BMRP). The resulting inflation factor for the applicable period is 5.98%. As an example of the impact of the adjustment, the adjusted facility support cost total is increased from \$140.0 million to \$148.4 million.

Existing Funding Sources

Operations and Maintenance

With few exceptions, trial court facility operations and maintenance costs are currently a county responsibility (Gov. Code §68073) and are typically funded from the county general fund. The state is responsible for funding court security services (including perimeter security), equipment and

furnishings, interior painting, replacement/maintenance of flooring, janitorial services, space rental for court records, and general liability/comprehensive insurance for other than faulty maintenance or design of a facility (Cal. Rules of Court, rule 810). State funds are sought and appropriated through the state support budget process.

Capital Projects

The facility ownership and operations survey of counties revealed that the primary resources currently being used by counties to fund court capital facility asset development include the following:

- Courthouse Construction Funds
- Criminal Justice Facility Construction Funds
- County general funds
- Other revenue

Based on the survey, revenue dedicated to retiring capital debt on court facilities statewide is about equally split between the Courthouse and Criminal Justice Facility Construction Funds (50 percent) and county general funds (47 percent). Grants and miscellaneous revenue fund the remaining three percent.

Revenues are derived from three sources: the Courthouse Construction Fund, the Criminal Justice Facilities Construction Fund, and civil filing surcharges.

Government Code section 76000 et seq. requires counties to levy an additional penalty of \$7 for every \$10 in fines, penalties, and forfeitures imposed for criminal offenses, including violations of the vehicle code (except parking offenses). Pursuant to a county board of supervisor's resolution, the added penalty can be deposited into any of six authorized funds. Two of these, the Courthouse Construction Fund and the Criminal Justice Facilities Construction Fund, are used for rehabilitating, constructing, or financing court facilities. While the Courthouse Construction Fund is limited to these purposes, the Criminal Justice Facilities Construction Fund may be similarly used for county criminal justice facilities, as well as for the operation and maintenance of court and criminal justice facilities and the improvement of criminal justice automated information systems. Because the amount collected for the courthouse construction fund is set by a county's board of supervisors, it varies from \$0 to \$5 dollars per every \$10 in fines, penalties, and forfeitures imposed for criminal offenses (Appendix B). When authorized by a county board of supervisor's resolution, an additional penalty of \$2.50 for each fund (Courthouse Construction and Criminal Justice Facility Construction Funds) may be imposed for each parking violation for which a penalty, fine, or forfeiture is imposed. One dollar for every \$2.50 collected for each fund is subsequently deposited into the county general fund.

In addition to the Courthouse Construction and Criminal Justice Facilities Construction Funds discussed above, Riverside, San Francisco, and San Bernardino Counties are authorized by the Government Code to add surcharges to civil filing fees.

- Government Code sections 26826.1 and 26826.2 authorize the Board of Supervisors of Riverside County to impose a surcharge of up to \$50 on civil and family law filing fees. Funds collected are to cover the costs of the seismic stabilization, construction, and rehabilitation of the Riverside County Courthouse and the Indio Branch Courthouse.

- Government Code section 26826.4 authorizes the Board of Supervisors of San Bernardino County to impose a surcharge not to exceed \$35 on civil filing fees (including family and probate), other than in a limited civil case. Collected funds are to supplement the Courthouse Construction Fund, to be deposited in that fund, and used solely for the purposes authorized for expenditures from that fund.
- Similarly, the Board of Supervisors of the City and County of San Francisco is authorized by Government Code section 76238 to collect a surcharge of up to \$50 on any civil filing fee (including family and probate). Funds are to assist in the acquisition, rehabilitation, construction, and financing of courtrooms or of a courtroom building or buildings. Collected funds are deposited into the Courthouse Construction Fund.

See Appendix B for details on the Courthouse Construction Fund and civil filing fee surcharges.

Debt Service

Existing annual revenue generated by fees authorized for use for court facilities, and the annual debt service for outstanding bonds funded by those fees, are summarized in the table below.

Table 3G
Existing Debt Service and Debt Funding Sources (\$ Millions)

	Annual Revenues (FY 98/99)	Existing Annual Debt Service (as of 1999)	Percent of Total Annual Debt Service	Uncommitted Annual Revenue
Courthouse Construction Fund (CCF)	55.3			
Civil filing fee surcharges (Riverside, San Bernardino, & San Francisco only)	3.1			
Subtotal CCF & civil surcharges	58.4	34.0	35	24.4
Criminal Justice Facilities Construction Fund	64.0	14.0	15	N/A
County general funds	N/A	44.6	47	N/A
Other	N/A	3.3	3	N/A
Total	122.4	95.9	100	24.4

Source: Task Force on Court Facilities' Survey of County Trial Court Facilities Operations and Maintenance Costs

Excluding the Criminal Justice Facilities Construction Fund, the net annual uncommitted revenue generated from fees for fiscal year 1998–99 totals \$24.4 million. The Criminal Justice Facilities Construction Fund is principally used by counties to fund other justice system facility needs, not courthouse construction. Therefore, the Task Force does not consider this fund to be a realistic or appropriate source of revenue for future court construction. It is, however, an existing source of funding for current debt, for which the fund is already committed.

The amount of funds available for new construction or debt financing will increase over time as debt associated with the Courthouse Construction Fund is retired. Revenue from criminal fine penalties and civil filing surcharges are also likely to grow, commensurate with the increased caseload forecasted in Phase 3 by the Task Force (see Forecasts of Future Need) over the next 20 years. Revenue from penalties and surcharges is projected to increase approximately 1.6 percent per year; at the same rate projected for caseload and judicial positions.

Annual Cost and Funding

Based on existing revenue sources and the funding needs projected earlier, the unfunded cost for existing and needed court facilities can be modeled. The model presented below assumes that as current need is met, leased facilities would be phased out until only 250,000 USF remained. In the future, leased facilities would be used principally for emergency needs or as temporary space during repair or renovation of owned facilities. Therefore, lease payments are projected to decline over the same 10-year period that is recommended for fulfilling current trial court facilities needs. Figure 3H and the accompanying table below illustrate the capital need and facility support costs, together with the total funds available for capital development and for facility support. The table also presents the net annual funding required for each of the selected years. (See Appendix C for more details.)

Figure 3H
ANNUAL COST & FUNDING MODEL
Scenario: Maximum Reuse – Pay-As-You-Go, with Existing Revenues
(\$ Millions)

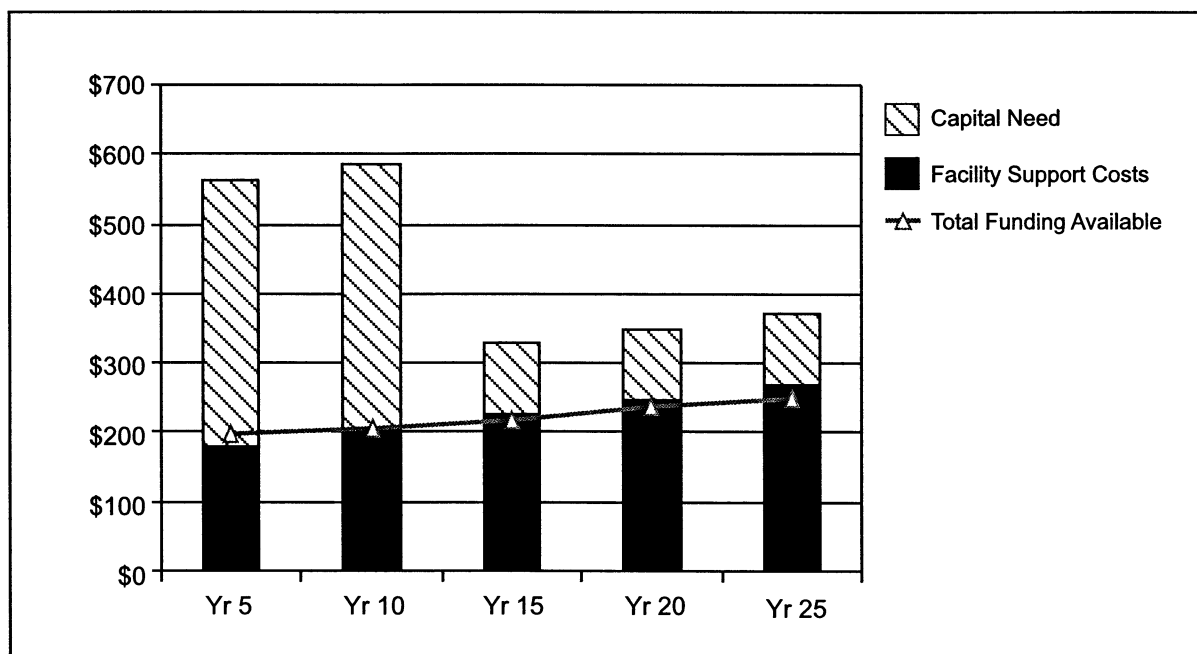


Table 3H
(Data For Figure 3H*)
Annual Cost/Revenues for Selected Years
(\$ Millions)

	Year 5	Year 10	Year 15	Year 20	Year 25
Facilities inventory (USF, in millions)	11.2	13.9	15.8	17.3	18.7
Capital need (current & future)	\$384.6	\$384.6	\$103.8	\$103.8	\$103.8
Facility support costs	\$175.7	\$202.6	\$225.4	\$245.4	\$265.5
Total Funding Required	\$ 560.3	\$587.2	\$329.2	\$349.2	\$369.3
Uncommitted capital revenue from fees	\$ 31.9	\$ 37.8	\$ 50.1	\$ 69.2	\$ 81.7
County general funds committed to court facility maintenance (1999)	\$167.6	\$167.6	\$167.6	\$167.6	\$167.6
Total Funding Available	\$199.5	\$205.4	\$217.7	\$236.8	\$249.3
Net Funding Required	\$360.8	\$381.8	\$111.4	\$112.4	\$120.0

* Values charted in Figure 3H are shown in bold.

Impact of Financing Capital Needs

The above model is based on paying all design, development, and construction costs as they are incurred; so-called pay-as-you-go financing. The bow wave of capital investment needed between years 3 and 12 in the above pay-as-you-go model could be financed through bonds or other financing tools to reduce the annual expenditure. However, the total cost would increase due to the interest cost of borrowing money. The result would be greater funding needs beginning in year 13 and continuing through the 30-year term of financing. Figure 3I and the table that follows illustrate the effect of financing the current capital need for trial court facilities based on a 30-year term and 6.0 percent interest. The analysis did not include financing during construction, bond fees, or other expenses. (See Appendix C for more details.)

Figure 3I
ANNUAL COST & FUNDING MODEL
Scenario: Maximum Reuse
Current Need Is Financed (6.0%, 30 Years), Future Need Is Pay-As-You-Go,
with Existing Revenues
(\$ Millions)

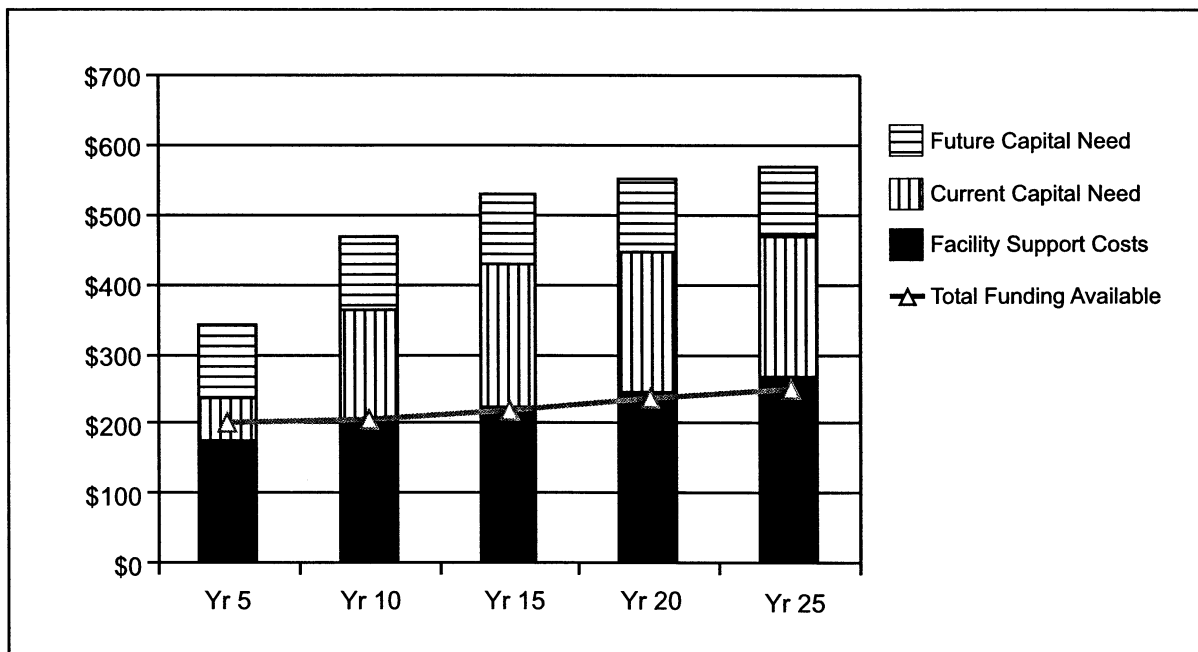


Table 3I
(Data for Figure 3I*)
Annual Cost/Revenues For Selected Years
(\$ Millions)

	Year 5	Year 10	Year 15	Year 20	Year 25
Facilities inventory (USF, in millions)	11.2	13.9	15.8	17.3	18.7
Current capital need – debt service	\$60.6	\$161.6	\$202.0	\$202.0	\$202.0
Future capital need – pay-as-you-go	\$103.8	\$103.8	\$103.8	\$103.8	\$103.8
Facility support costs	<u>\$175.7</u>	<u>\$202.6</u>	<u>\$225.4</u>	<u>\$245.4</u>	<u>\$265.5</u>
Total Funding Required	\$340.1	\$468.0	\$531.2	\$551.2	\$571.3
Uncommitted capital revenue from fees	\$31.9	\$37.8	\$50.1	\$69.2	\$81.7
County general funds committed to court facility maintenance (1999)	<u>\$167.6</u>	<u>\$167.6</u>	<u>\$167.6</u>	<u>\$167.6</u>	<u>\$167.6</u>
Total Funding Available	\$199.5	\$205.4	\$217.7	\$236.8	\$249.3
Net Funding Required	\$140.6	\$262.6	\$313.5	\$314.4	\$322.0

* Values charted in Figure 3I are shown in bold.

Financing of the current need has only a moderate effect on the maximum annual investment, which levels off at approximately \$315 million beginning in year 14 versus pay-as-you go, which peaks at \$388 million in year 12.

Table 3J
Comparison of Net Funding for Select Years
Pay-As-You Go versus Financing Current Need (\$ Millions)

	Year 5	Year 10	Year 15	Year 20	Year 25
Total net funding (Current capital need financed)	\$140.6	\$262.6	\$313.5	\$314.4	\$322.0
Total net funding (Pay-As-You-Go)	\$360.8	\$381.8	\$111.4	\$112.4	\$120.0

Funding Recommendations

Existing Revenues

County General Fund – Maintenance of Effort

In accordance with its principle of fiscal neutrality, the Task Force recommends that, should facility responsibility be transferred to the state, funds historically spent by counties to maintain existing court facilities be transferred to the state in perpetuity. In so doing, county general funds would continue to fund or offset the management, operations, and maintenance of all existing facilities. To accomplish this, the Task Force recommends that Maintenance of Effort (MOE) obligations be established to transfer county funding that is committed to court facility operations and maintenance to the state. The proposed procedure is similar to the one established by the Act for transferring counties' historical court operations funds to the state. This recommendation is discussed in detail later in this report.

Criminal Fine Penalties and Civil Filing Surcharges

The Task Force recommends that

- The counties transfer the uncommitted balance of their courthouse construction funds to the state and local court if and when responsibility for trial court facilities transfers to the state. Seventy-five percent of the funds should be transferred to the state, and the remaining 25 percent should be transferred to the local court for local facilities projects. Additionally, the amount deposited into the fund for each \$10 in criminal fines, penalties, and forfeitures should be fixed at the amount in effect on January 1, 1998, as set by resolution of the county's board of supervisors (to include funds deposited from parking assessments). Deposits of future revenue that is not already committed to retiring debt incurred by counties for court construction (prior to transfer of facility responsibility) should also be transferred to the state and local court each quarter, in the same proportions noted above.
- Counties shall be required to account for Courthouse Construction Fund expenditures from January 1, 1998, until the date that transfer of county court facilities is completed. During the transition period from the effective date of the statute transferring court facilities to the state until transfer of facilities is completed in the county, expenditures of not otherwise committed Courthouse Construction Funds shall require approval of the local court and the county. Courthouse Construction funds that were transferred from the fund after January 1, 1998, and used by a county for purposes other than those specified in Government Code section 76100, shall be included in the funds transferred to the state and local courts.
- The Judicial Council develop policy and procedures for expenditure of Courthouse Construction Funds transferred to the local court, and regularly conduct periodic audits of the collection of fees at the local courts.
- The state deposit Courthouse Construction Funds collected from the counties into a fund dedicated to the capital facilities needs of the judicial branch. The Judicial Council should prioritize its capital facilities needs and request project funding through the state's capital outlay process. Projects to be funded with Courthouse Construction Funds deposited with the state

should be included in the Governor's budget and approved by the Legislature. Implementation of approved projects should be subject to control by the state Public Works Board.

- The use of money deposited in the Criminal Justice Facilities Construction Fund, which may be used by counties for courts, should remain at the discretion of the county. This will limit future use of the fund to facility ventures where the county volunteers to apply the funds to court projects that meet county criminal justice needs.
- Time limitations on collections for the Courthouse Construction Fund (Gov. Code §76100, subd. (d)) and the Criminal Justice Facilities Construction Fund (Gov. Code §76102, subd. (c)) be removed.
- Civil filing surcharges collected in Riverside, San Francisco, and San Bernardino Counties continue to be collected by the counties as authorized by the government code. These counties should transfer the uncommitted balance of any money collected from civil filing surcharges to the state if and when responsibility for trial court facilities transfers to the state. Deposits of future revenue not committed to retiring debt incurred by counties for court construction (prior to transfer of facility responsibility) should also be transferred quarterly to the state. Funds collected by the county should be deposited by the state into a dedicated fund for facility projects in the county where the money is collected. The local court, through the Judicial Council, should request project funding through the state's capital outlay process. Requested projects must be in accordance with the government code that authorized collection of the surcharge. Approved projects should be subject to control by the Public Works Board. (If authority to collect civil filing surcharges is extended to all counties, the restriction to use funds only for projects in the county where they are collected should be removed. See discussion of New Revenue Sources below.)

New Revenue Sources

In smaller counties, new court facility construction is an event that occurs only once every few decades. Funding is an extraordinary one-time expenditure that is not part of every annual budget. In larger counties, the need to invest in new court construction or major renovation is constant, and is typically budgeted for annually. If the state assumes trial court facility responsibilities, as recommended by the Task Force, the statewide capital court facilities needs will be continuous, generating a constant need to plan and invest in major construction projects. In order to maintain the level of capital investment identified by the Task Force and necessary to the effective operation of a statewide court system, a consistent and reliable source of revenue must be identified. Under a statewide system, the courts could rely upon state general funds and currently authorized criminal penalties and civil filing surcharges dedicated to courthouse construction. In addition, new revenue sources need to be created. In order to fund the capital investment identified by the Task Force, the additional revenue sources will be needed whether responsibility for court facilities transfers to the state or remains with the counties.

State General Fund

Most California agencies rely on the state's General Fund for both facility operations/maintenance and capital facility needs.

The Task Force recommends that

- Court facility management, operating, and maintenance costs in excess of the amount collected from the recommended facilities MOE be funded from the state General Fund. Funding requests should be incorporated into the Judicial Council's annual trial court budget process and the state's support budget process.
- Court facility alteration, renovation, and construction projects that are not funded from the Courthouse Construction Funds transferred to the state should be funded from the state General Fund, following the state's capital outlay budget process.

Criminal Fine Penalties and Civil Filing Surcharges

Currently, the amount collected for the Courthouse Construction Fund, which is set by a county's board of supervisors, varies from \$0 to \$5 per every \$10 in fines, penalties, and forfeitures imposed for criminal offenses. Only three counties are now authorized to add a surcharge to civil filing fees: Riverside, San Francisco, and San Bernardino.

The Task Force recommends that criminal fine penalties and civil filing surcharges providing revenue for trial court facility construction be standardized in all counties as follows:

Revise Government Code section 76000 et seq. to prescribe that \$5 per every \$10 in fines, penalties, or forfeitures assessed for criminal offenses be collected in all counties and deposited into the Courthouse Construction Fund. This change should be implemented without affecting the amounts collected by the counties and deposited into other authorized funds. Counties should be exempted from the maximum \$7 assessment per \$10 in fines if necessary to implement this recommendation. The fee increases shall be effective and shall begin to accrue at the local level as of the effective date of the statute.

Revise the government code to require a surcharge of \$50 on civil filing fees in all counties following the San Francisco model (Gov. Code §76238) to be deposited in the Courthouse Construction Fund.

Based on the amount collected in fiscal year 1998-1999, these proposed changes are estimated to add \$120.7 million in annual revenue to the Courthouse Construction Fund, comprised of \$69.8 million from the increased criminal penalty assessment, and \$50.9 million from statewide implementation of civil filing surcharges. The total revenue generated for courthouse construction would be \$179.1 million per year (1999 dollars), rising to a projected \$246.5 million in 20 years.

Figure 3K and the accompanying table illustrate the effect of the proposed revenue increases on the net funding need for the pay-as-you-go model. As illustrated by the graph, once current facilities needs are satisfied—projected to occur after year 12 in the detailed model—the courts' support costs and capital development requirements could be funded entirely from fees, without dependence on state capital outlay funds. (See Appendix C for more details.)

Figure 3K

ANNUAL COST & FUNDING MODEL
Scenario: Maximum Reuse – Pay-As-You-Go, with Proposed New Revenue
(\$ Millions)

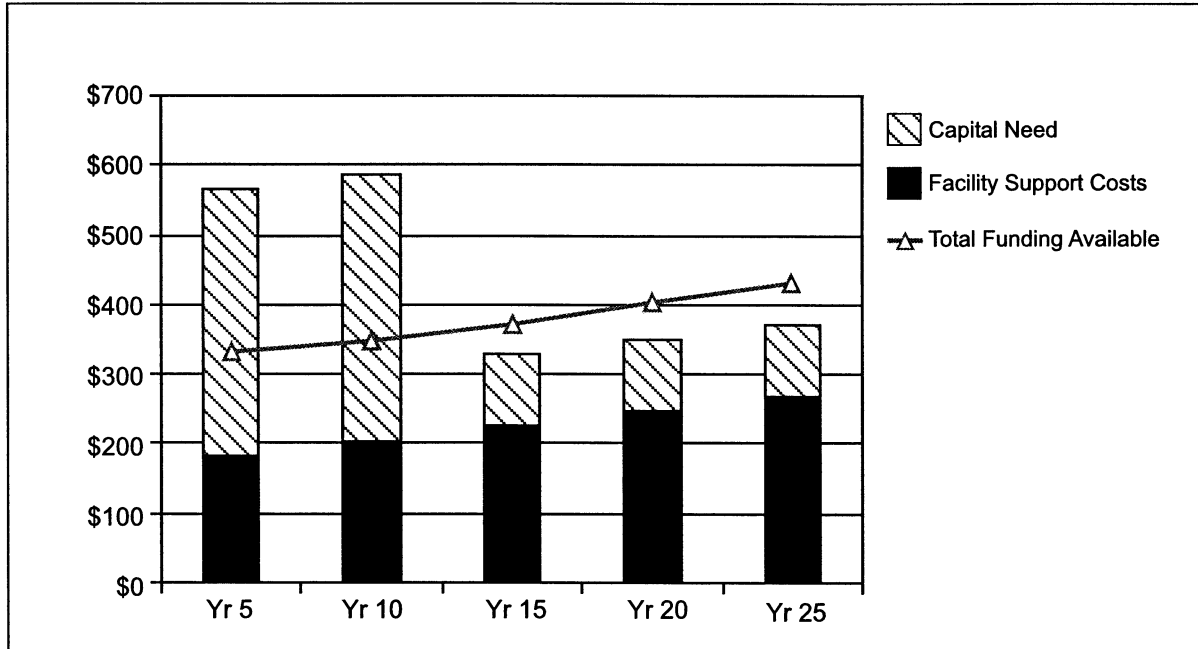


Table 3K
(Data For Figure 3K*)
Annual Cost/Revenues for Selected Years
(\$ Millions)

	Year 5	Year 10	Year 15	Year 20	Year 25
Facilities inventory (USF, in millions)	11.2	13.9	15.8	17.3	18.7
Capital need (current & future)	\$384.6	\$384.6	\$103.8	\$103.8	\$103.8
Facility support costs	\$175.7	\$202.6	\$225.4	\$245.4	\$265.5
Total Funding Required	\$560.3	\$587.2	\$329.2	\$349.2	\$369.3
Uncommitted capital revenue from fees	\$163.8	\$180.6	\$204.9	\$236.8	\$263.2
County general funds committed to court facility maintenance (1999)	<u>\$167.6</u>	<u>\$167.6</u>	<u>\$167.6</u>	<u>\$167.6</u>	<u>\$167.6</u>
Total Funding Available	\$331.4	\$348.2	\$372.5	\$404.4	\$430.8
Net Funding Required**	\$228.9	\$238.9	(\$43.3)	(\$55.2)	(\$61.5)

* Values charted in Figure 3K are shown in bold.

** Negative values indicate potential surplus.

Figure 3L and the accompanying table illustrate the effect of financing the current capital need for trial court facilities, based on a 30-year term and 6.0 percent interest, with future capital need pay-as-you-go, together with the proposed increased revenues. Under this scenario, the uncommitted capital revenue from fees, if achieved, could satisfy the debt service on current capital need and offset a substantial portion of the future capital need. However, additional state funds would be needed to fund the balance of the total need.

Figure 3L
ANNUAL COST & FUNDING MODEL
Scenario: Maximum Reuse
Current Need Is Financed (6.0%, 30 Years), Future Need Is Pay-As-You-Go,
with Proposed New Revenue
(\$ Millions)

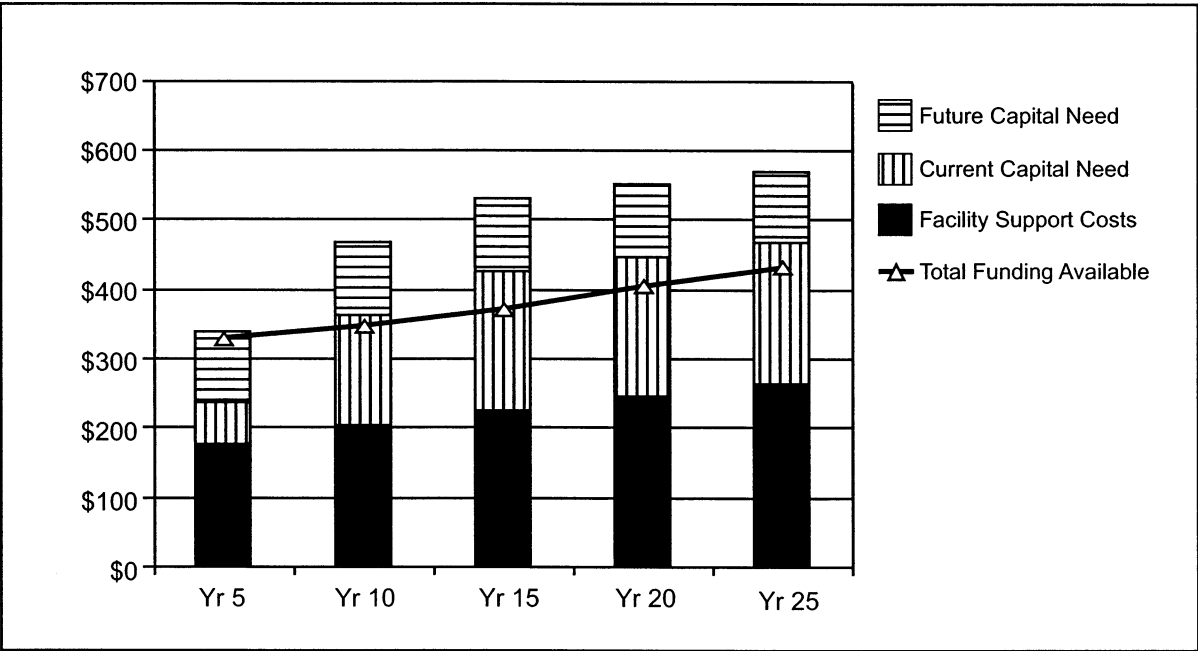


Table 3L
(Data for Figure 3L*)
Annual Cost/Revenues for Selected Years
(\$ Millions)

	Year 5	Year 10	Year 15	Year 20	Year 25
Facilities inventory (USF, in millions)	11.2	13.9	15.8	17.3	18.7
Current capital need – debt service	\$60.6	\$161.6	\$202.0	\$202.0	\$202.0
Future capital need – pay-as-you-go	\$103.8	\$103.8	\$103.8	\$103.8	\$103.8
Facility support costs	<u>\$175.7</u>	<u>\$202.6</u>	<u>\$225.4</u>	<u>\$245.4</u>	<u>\$265.5</u>
Total Funding Required	\$340.1	\$468.0	\$531.2	\$551.2	\$571.3
Uncommitted capital revenue from fees	\$163.8	\$180.6	\$204.9	\$236.8	\$263.2
County general funds committed to court facility maintenance (1999)	<u>\$167.6</u>	<u>\$167.6</u>	<u>\$167.6</u>	<u>\$167.6</u>	<u>\$167.6</u>
Total Funding Available	\$331.4	\$348.2	\$372.5	\$404.4	\$430.8
Net Funding Required	\$8.7	\$119.8	\$158.7	\$146.8	\$140.5

* Values charted in Figure 3L are shown in bold.

Under each scenario—either pay-as-you-go or financing current capital need—the proposed revenue increases will satisfy the goal of establishing a stable and reliable funding source. The following Table 3M compares the net funding required under the two scenarios.

Table 3M
Comparison of Net Funding for Select Years, with Proposed New Revenues
Pay-As-You-Go versus Financing Current Need
(\$ Millions)

	Year 5	Year 10	Year 15	Year 20	Year 25
Total net funding (Current capital need financed)	\$ 8.7	\$ 119.8	\$ 158.7	\$ 146.8	\$ 140.5
Total net funding* (Pay-as-you-go)	\$ 228.9	\$ 238.9	\$ (43.3)	\$ (55.2)	\$ (61.5)

* Negative values indicate potential surplus

Because the courthouse construction revenues are designed exclusively to fund capital development projects, the Task Force recommends that revenues be reviewed and audited regularly and periodically. When the current need is met in the pay-as-you-go scenario, or if available capital funds exceed the total of debt service and future capital need under the financed scenario, the revenues should be reevaluated and the fees adjusted so that they reflect capital budget requirements. As an alternative, legislation could be enacted to allow the collected funds to be used to offset facility support costs.

Section 4: Transition

Introduction

This section presents the Task Force's recommendations for transferring responsibility for trial court facilities from the counties to the state. It examines the state's organizational needs for carrying out trial court facilities planning, acquisition, management, and maintenance responsibilities. A transition schedule is also presented.

Short-Term Recommendations

The Task Force recommends that transfer of responsibility for trial court facilities occur over a three-year period, with the counties retaining funding responsibility for existing debt payments, facilities management, and maintenance costs through an MOU with the Judicial Council. The MOU should include an MOE obligation. Court facility responsibility for new judgeships and court employees (associated with those positions authorized after January 1, 1998) should continue to rest with the state. Facility responsibility related to existing judgeships and court employees should remain with each county until transferred to the state under the terms of the MOU. Responsibilities of parties sharing mixed-use buildings should be established by agreement in the MOU.

To transfer responsibility for trial court facilities from the counties to the state, the Judicial Council and local courts will need to organize and staff a transition team. Completing the transfer in three years will be a formidable task. During this period, the Judicial Council must design and staff the transition organization; train staff; develop policies, procedures, and schedules; establish MOE's; negotiate the responsibilities of counties and the state relative to over 400 trial court facilities; and negotiate MOU's with all 58 counties. The Task Force recommends that funding be provided by July 1, 2002, to plan, organize, and staff the transition.

The long-term organization should be designed to assume responsibility for an increasing portfolio of court facilities, as agreements are executed with each county and facilities responsibility is transferred to the state. In addition, the long-term organization should integrate transitional staff as their transitional tasks are completed. Coordinating responsibilities and activities of the long-term and transitional (short-term) organizations will be critical to the successful transfer of responsibility.

Responsibility

The following table outlines the recommended responsibilities of the Judicial Council, local trial courts, and counties in transferring trial court facility responsibility to the state.

Table 4A
Short-Term Responsibilities – Judicial Council, Local Courts, and Counties

Entity	Responsibilities
Judicial Council	<ul style="list-style-type: none">• Organize and staff transition team• Develop policy, procedures, and schedules, including prototype MOUs• Conduct pre-negotiation research and data-gathering regarding facilities in each county• Conduct seismic reviews of trial court facilities• Review counties' MOE's• Participate in negotiations• Review and approve final MOU's.
Local court	<ul style="list-style-type: none">• Organize and staff transition team• Conduct prenegotiation research and data-gathering regarding local facilities• Review County's MOE• Participate in negotiations• Review final MOU
County	<ul style="list-style-type: none">• Provide Judicial Council and local court with copy of facility records, including legal documents such as title, leases, lease assignments, and bonds• Prepare MOE cost submittal pursuant to DOF instructions and provide Judicial Council with supporting documentation regarding facility operations, maintenance, and leases• Provide Judicial Council with proposed MOU that includes the disposition of each court facility (e.g., transfer title to state, county retain ownership with court occupying a specified area, etc.)• Participate in negotiations• Ensure that capital projects that are in design or construction (pipeline projects) are completed in accordance with contract documents• Operate and maintain trial court facilities until responsibility transfers to the state under the terms of the negotiated MOU• Review and approve final MOU

Implementation Steps

General Transfer Principles

1. The state shall ultimately be fully responsible for all court facilities, including providing facilities for current and future judgeships, subordinate judicial officers, and court employees.
2. Responsibility for providing court facilities for new judgeships and court employees associated with those positions authorized after July 1, 2001, shall continue to rest with the state.
3. Responsibility for providing and maintaining court facilities (Gov. Code §68073), including complying with the Americans with Disabilities Act, shall remain with each county until transferred to the state.
4. The Judicial Council shall represent the state in the construction, acquisition, and management of all court facilities, except as set forth in enabling legislation.
5. Responsibilities of parties sharing mixed-use buildings shall be established by agreement.

Maintaining the Flow of Projects during Transition

The Task Force believes that a program of financial incentives is an important step that will facilitate and encourage counties to continue the development of court facility projects during the period prior to the enactment of trial court facility legislation, and extending from the effective date of such legislation until the transfer of responsibility for court facilities to the state. Therefore, the Task Force recommends urgency legislation be enacted to provide an incentive program in the form of future state reimbursement of county general fund expenditures for preapproved projects, and conditioned on the enactment of trial court facilities legislation. The specifics of the Task Force's incentive plan are as follows:

1. The incentive program should be enacted as urgency legislation.
2. The incentive program shall provide for state reimbursement of county general fund expenditures relating to pre-approved court facilities projects. To be eligible for reimbursement, counties must obtain prior written approval for their proposed projects from the Judicial Council and the Department of Finance.
3. The Judicial Council and the Department of Finance shall establish, in a timely fashion, written guidelines and procedural requirements for counties requesting project reimbursement. The Judicial Council shall review and prioritize all county requests and forward them to the Department of Finance for its review and final approval. Following written approval by the Judicial Council and the Department of Finance, and appropriation of funds by the Legislature, counties shall be reimbursed for court facility capital projects in accordance with the rules outlined above.
4. Upon enactment of legislation that provides for the transfer of responsibility for court facilities to the state, county general fund expenditures for pre-approved court facilities projects shall be reimbursed by the state, pursuant to the requirements included in #3,

above. Should no court facility transfer legislation be enacted, no reimbursement shall be made to counties.

5. Eligibility for project reimbursement shall extend from January 1, 2001, until the effective date of the MOU between the Judicial Council and the respective county.
6. Eligible project costs shall only include the cost of elements or phases funded by county general funds.
7. Any county general funds expended or committed prior to January 1, 2001, for a court facility project, or any phase or element thereof, shall not be reimbursed. For these purposes, “committed” is defined as county general fund monies allocated, approved, appropriated, or committed by resolution or ordinance of a county board of supervisors.

Fiscal Neutrality

1. The responsibility for court facilities should transfer to the state without any fiscal gain or loss to either the counties or the state at the time of transfer.
2. Responsibility for funding existing debt on facilities shall remain with each county until the debt is retired, either directly or by transferring the revenue stream and debt to the state. Once the debt is retired, all non-Courthouse Construction Fund revenues will revert to the county.
3. If title transfers, it shall do so without payment for capitalized value of buildings and the land associated with those buildings. Determination of appraised value shall not be necessary as a condition of transfer.
4. Facility operations and maintenance costs shall continue to be funded by each county through an MOE with the state. Facility operations and maintenance costs shall be defined by enabling legislation, which shall take into account the specific recommendations made by the Task Force relative to this issue.
5. Revenue generated for Courthouse Construction Funds will transfer from each county to the state, less any funds obligated to debt service, to the extent that such debt remains with that county. Should the debt transfer to the state, the corollary debt service revenue stream shall also transfer to the state.

Negotiation Principles and Guidelines

General Negotiation Principles

1. All counties shall transfer the responsibility for court facilities to the state, subject to the MOU between the Judicial Council and each county.
2. It is critical to expedite the transfer of responsibility for court facilities to the state.
3. The state shall not hold the counties liable for deferred maintenance that existed at the time responsibility for facilities is transferred, and for which no funds were committed to address such maintenance requirements.

4. Funds will continue to be deposited into the Courthouse Construction Fund based on the formula adopted by a county's board of supervisors and in effect on January 1, 1998. On the date agreed to in the MOU, 75 percent of the uncommitted balance in a county's Courthouse Construction Fund shall be transferred to the state, with 25 percent remaining with the local court where the funds were collected. Future uncommitted Courthouse Construction Fund revenue will also be transferred to the state and local court in the same proportion, in perpetuity. Courthouse construction funds transferred to local courts will be used for facilities projects, in accordance with policies and procedures adopted by the Judicial Council and state law.

Transferring Responsibility

1. Negotiations between the Judicial Council and each county regarding the transfer of responsibility for court facilities must be completed within three years after legislation implementing the Task Force's recommendations becomes effective.
2. The Judicial Council, in consultation with the local courts, shall negotiate with the counties on a building-by-building basis to determine the optimal way to provide court facilities in each county.
3. The state Public Works Board shall be the final arbiter in any disputes between the Judicial Council and a county during the negotiations.
4. Except and to the extent a court facility is encumbered by bonds, lease, installment purchase, or other debt obligation, both the county and the Judicial Council are entitled to equity in court facilities, based on the respective proportional use of area by the courts and by non-court county functions at the time the MOU is implemented, regardless of which entity holds title to the facility. Unless title to an encumbered court facility is transferred to the state, the state shall have no equity or other ownership rights to such facility. In no event, however, shall the county sell, assign, or transfer any rights to such court facility, or otherwise take any steps to place further encumbrances on the facility, other than those contained in the legal documents establishing the encumbrance. Upon termination or other release of the encumbrance, the state shall immediately obtain equity rights in the facility. If, during the period of encumbrance, the state is required to vacate the facility through the operation or enforcement of the legal documents establishing the encumbrance, the county shall be responsible for providing the state with suitable and necessary court facilities at least equal to those occupied by the state immediately before the state was compelled to vacate the facility.

Acceptance of Facility by the State

In connection with its recommendation that the state shall ultimately be responsible for court facilities, the Task Force recommends that responsibility for all existing court facilities currently being used for court functions be transferred to the state, except for facilities satisfying the criteria below.

The state may reject a court facility if a significant threat to the life, health, or safety of the public or persons occupying the facility exists—including seismically hazardous conditions constituting either an

“imminent risk” (level VII), “extensive but not imminent risk” (level VI), or “substantial risk” (level V)—or functional deficiencies that in their totality are significant.³

A licensed structural engineer utilizing the evaluation program and criteria established by the Department of General Services Real Estate Services Division shall evaluate any buildings built under building codes prior to the 1988 Uniform Building Code, unless previously upgraded for seismic risk. These seismic evaluations shall be funded by the state and completed prior to completion of the negotiations between the Judicial Council and each county concerning the disposition of affected buildings.

A county may appeal the rejection of a building to the state Public Works Board. For the purpose of hearing an appeal, the Task Force recommends the board be augmented by the addition of two voting members, one representing the counties and one representing the courts. The state shall have the burden of proof to justify the rejection of a court facility. If rejection of a facility is upheld, a county shall be responsible for providing necessary and suitable court facilities, as required by Government Code section 68073 as that section read on July 1, 2000.

Historic Facilities

Recognizing that historic facilities represent uniquely valuable community resources, the Task Force recommends that no historic facility be transferred to the state without the express approval of the county’s Board of Supervisors. Historically significant facilities may or may not transfer, but must be made available to the state for court use; however, the county may, with the agreement of the local court, opt to provide suitable and adequate court facilities in an alternative facility. Facilities considered “historic” shall either be registered on the state or federal historic register (pursuant to Health & Saf. Code, §18950, and 16 U.S.C., §470(a)) or be eligible for inclusion on either register.

Space Utilization

The use of any space occupied by the county or the local court shall be compatible with the facility, and such use shall not substantially deteriorate or diminish the ability of either the county or the local court to use the remaining spaces effectively.

Mixed-Use Buildings

1. The assignment of responsibility for court facilities may be accomplished either by the state holding fee title or entering into a lease agreement with a county or a private landlord or any other mutually agreed to mechanism.
2. Each county and the state shall have equity rights to the space occupied by the county and the local court, respectively, regardless of which party holds title.

³ Risk Acceptability Table, State Building Seismic Program, Report & Recommendations, Division of the State Architect, April 1994, page II-2.

3. Neither the Judicial Council nor the county shall charge each other rent for space that either the county or the courts occupies at the time the MOU is executed. Costs associated with additional space shall be paid by the agency desiring more space.
4. In the case of mixed-use buildings, the state and the county shall be responsible for the operations and maintenance costs associated with their proportional shares of the building. The county shall also be responsible for furnishing its payments to the state for operations and maintenance under the terms of its MOE for the court's share of the building, unless otherwise mutually agreed by the parties.
5. The sale of property is permissible, regardless of which party holds title. If a party occupies 80 percent or more of a mixed-use space, such majority occupant shall have the option to require that the minority occupant (occupying 20 percent or less of the facility) vacate the premises, so long as reasonable notice is given. If a majority occupant requires a minority occupant to vacate a court facility, the majority occupant shall compensate the minority occupant for its equity in the facility and for relocation costs at a fair market rate.

Projects in Development

1. Any county funds or property that have been allocated, approved, appropriated, or committed for a court facility project by a county board of supervisors, by resolution or ordinance, shall remain committed to that project.
2. The Judicial Council reserves the right to require a county to complete a project in the design or construction phase prior to its transfer to the state.
3. The Judicial Council may negotiate with the county to implement design changes related to a court facility project, to the degree that the design changes do not increase the cost of the project to the county.

Facility Sale or Transfer

1. The state reserves the right to dispose of surplus property when title for the property transfers to the state. Prior to disposing of any court facility that was previously the responsibility of a county, the state shall comply with the requirements of Government Code section 11011.5 et seq.
2. Prior to the state making a decision to sell, lease, or otherwise dispose of a court facility transferred from a county to the state, it shall consult and discuss the potential sale, lease, or disposition with the affected county. The state shall also consider whether the potential new or planned use of the facility
 - Is compatible with the use of other adjacent public buildings
 - Would unreasonably depart from the historic or local character of the surrounding property or local community
 - Would have a negative impact on the local community
 - Would unreasonably interfere with other governmental agencies that use or are located in or adjacent to the court facility

- Is of sufficient benefit to outweigh a public good in maintaining it as a court facility or site

Negotiation Process

Procedures

The Task Force recommends that the California State Association of Counties and the Judicial Council, in consultation with local trial courts and county governments, develop detailed procedures for transferring responsibility for trial court facilities to the state.

Maintenance of Effort (MOE) Agreement

An MOE shall establish each county's annual financial obligation to the state with respect to court facilities. The MOE shall be determined by calculating the cost of facility maintenance items, as outlined below. Items that have relatively stable costs are averaged over five years and adjusted to account for inflation to the date of transfer. Other costs such as lease payments are calculated differently to recognize the unique nature of the expenditure.

The "five-year average" means the average of fiscal years 1995–96 through 1999–2000, with each year adjusted to account for inflation up to the date of transfer. Costs shall be based on actual county expenditures for those items listed in Table 4B. Exclusions include land, buildings, capital expenditures, and betterments (as defined by the State Administrative Manual [SAM]), as well as parking provided in separate structures not dedicated solely to court use.

Facility management and administration costs directly or indirectly associated with trial court facilities such as management, supervision, planning, design, department administration, payroll, finance, procurement and program management are included in the MOE. The MOE calculation will use the five-year average cost of these functions, as defined above.

Repair and maintenance projects are included in the MOE and are defined in SAM as those projects that "continue the usability of a facility at its designed level of services." Maintenance includes any expenditures for deferred maintenance. Any non-maintenance projects (i.e., capital projects), including betterments as defined in SAM, are not included in the MOE.

Lease payments shall be included in the calculation of the MOE. The goal is to transfer resources that currently provide for a facility. Therefore, the calculation of the amount to be extended indefinitely shall be based on the obligations stated in the lease. To ensure sufficient resources to cover the obligations assumed by the state, the calculation of the MOE shall include any contractual increases in the years that they are effective in the lease, instead of a five-year average. Years following the end of the lease shall be computed at the same rate as is applied to the last year of the lease.

The Department of Finance shall provide counties with instructions for calculating the actual MOE amount by using the average of the following three indices from the Bureau of Labor Statistics Producer Price Index: (1) building cleaning and maintenance services (Series Id PCU 7349); (2) operators and lessors of nonresidential buildings (Series Id PCU 6512); and (3) maintenance and repair construction (Series Id PCU BMRP). Each of the five years of cost data shall be adjusted using the combined index to ensure that all cost items are brought up to the value of those items in the year a facility transfers to the state. The adjusted amounts will then be averaged to determine the amount of the facilities' MOE. Prior to beginning negotiations, each county shall provide the Department of

Finance, the Judicial Council, and the local court with actual expenditures, adjusted in accordance with the Department of Finance instructions, for the cost elements listed on Table 4B for the specified fiscal years. The reported expenditures and indexed calculations shall be certified by the county auditor.

The MOE shall not include any expenditure related to a facility not accepted by the state or the portion of any court facility for which the county retains responsibility. In no event shall the MOE be payable by a county prior to the county and the Judicial Council entering into an MOU with respect to court facilities in that county. The MOU between the Judicial Council and each county shall include the amount of the MOE.

A county may submit a declaration to the Department of Finance, no later than 30 days after it receives notice of the proposed MOE, that declares that (a) the court-related facility expenditure data reported are incorrect, and the incorrect report resulted in the amount the county is required to submit to the state being too high; (b) the amount the county is required to submit to the state pursuant to the proposed MOE includes amounts that were specifically appropriated, funded, and expended by a county to fund extraordinary one-time expenditures for court-related facility costs; or (c) the amount the county is required to submit to the state pursuant to the proposed MOE includes expenses that were funded from grants or subventions, from any source, for court-related facilities, that could not have been funded without those grants or subventions being available. Periodic major facility repair or maintenance, such as re-roofing or replacement of major system components (e.g., an air conditioning chiller unit), is not considered an extraordinary one-time expenditure. Examples of extraordinary one-time expenditures include abatement of asbestos and structural changes to seismically upgrade a building. A county submitting that declaration shall concurrently transmit a copy of the declaration to the Judicial Council and the local court, which shall have the opportunity to comment to the Department of Finance on the validity of the statements in the declaration. Upon receipt of the declaration and comments, if any, the Department of Finance shall determine which costs identified in the county's declaration were incorrectly reported as court-related facility costs, were expended for extraordinary one-time expenditures, or were funded from grants or subventions. The Department of Finance will then make the appropriate reductions in the amount that a county must submit to the state. If a county disagrees with the Department of Finance's determination, the county may request that the Controller conduct an audit to verify the facts in the county's declaration. The Controller shall conduct the requested audit, which shall be at the requesting county's expense. If the Controller's audit verifies the facts in the county's declaration, the department shall reduce the amount the county is required to submit to the state pursuant to the proposed MOE by an amount equal to the amount verified by the Controller's audit, and the state shall reimburse the requesting county for the cost of the audit.

A court may submit a declaration to the Department of Finance, no later than 30 days after it receives notice of the proposed MOE, that the county failed to report county court facilities operations, maintenance, or administration costs, and that this failure inappropriately reduced the amount the county is required to submit to the state. A court submitting that declaration shall concurrently transmit a copy of the declaration to the county and the Judicial Council. A county shall have the opportunity to comment to the Department of Finance on the validity of statements in the declaration. Upon receipt of the declaration and comments, if any, the Department of Finance shall determine which costs identified in the court's declaration were not reported by the county as court-related facility costs. The Department of Finance will then make the appropriate increase in the amount that a county must submit to the state. If a court disagrees with the Department of Finance's

determination, the court, with concurrence of the Judicial Council, may request that the Controller conduct an audit to verify the facts in the county's declaration. The Controller shall conduct the requested audit, which shall be at the requesting court's expense. If the Controller's audit verifies the facts in the court's declaration, the Department of Finance shall increase the amount the county is required to submit to the state pursuant to the proposed MOE by an amount equal to the amount verified by the Controller's audit, and the county shall reimburse the requesting court for the cost of the audit.

Table 4B
MOE Cost Types and Associated Calculations

Element	Calculation	Additional Conditions
1. Facilities management and administration	Five-year average	
2. Purchase of land and buildings	N/A	
3. Construction and construction services	N/A	
4. Space rental/lease (except storage for court records)	In the MOE at rate specified in lease agreement. The allocation is a permanent element of the MOE.	.
5. Building maintenance and repairs	Five-year average	Defined by SAM
6. Betterment	May be in MOE if the betterment "continues the usability of a facility at its designed level of services." Calculated at the five-year average.	Defined by SAM
7. Purchase, installation, and maintenance of HVAC equipment	Five-year average	
8. Elevator purchase and maintenance	Five-year average	
9. Landscaping and grounds maintenance services	Five-year average	For mixed-use buildings, prorate portion of property equal to portion of court spaces within the overall complex
10a. Maintenance of parking dedicated to courts	Five-year average	
10b. Maintenance of parking for the general public that may be used by courts	N/A	Provision for continuing future use shall be included in MOU
11a. Maintenance of juror parking dedicated to courts	Five-year average	Use of parking space and the cost of maintenance may be included in the MOU
11b. Maintenance of juror parking which is general public parking that may be used by courts	N/A	Provision for continuing future use shall be included in the MOU
12. Depreciation of building	N/A	
13. Insurance on building	Last year of five-year period adjusted for inflation to the year of transfer	In proportion to court spaces, excluding the costs of excess insurance required by bonded indebtedness agreements
14. Grounds liability insurance	Last year of five-year period adjusted for inflation to the year of transfer	In proportion to court spaces
15. Utility use charges	Consumption average for five years multiplied by last years rate adjusted for inflation to the year of transfer	
16. Maintenance and repair of utilities	Five-year average	
17. Maintenance of exterior lighting and security equipment	Five-year average	

Memorandum of Understanding (MOU)

The Judicial Council, in consultation with the local courts, shall represent the state in negotiations with counties regarding the transfer of facilities responsibility from the counties to the state. The negotiations with each county shall be concluded with an MOU specifying the rights and obligations of the state and county relative to the transferred property, including responsibilities for liability arising from facility use, as well as any mutually agreed conditions or procedures for the ongoing administration of the property. Issues regarding occupancy and use of space within a mixed-use building shall be agreed upon by the Judicial Council and each county, and shall be spelled out in an MOU. Upon completion of the MOU, the Judicial Council shall have the ongoing responsibility for providing court facilities in that county, pursuant to the terms of the MOU. In carrying out this responsibility, the Judicial Council will comply with all state laws and regulations governing the state's capital outlay and support budgets. Capital outlay projects included in the Governor's budget will be executed under the oversight of the state Public Works Board or other administrative body established by law for this purpose. Facility service agreements (e.g., facilities planning, engineering, design, maintenance, repair, and construction) may be negotiated between the Judicial Council and the counties, and included in the MOU.

Title and Support Documents

After negotiations are completed and the MOU is signed, the Judicial Council and counties should expeditiously process and execute any required legal documents, such as title to real property and assignment of leases.

Negotiation Outcomes

There are a variety of capital asset ownership and management options available to the Judicial Council and the counties as outcomes of the negotiations. The following table outlines some of those options:

Table 4C
Ownership Options Available for Court Facilities

Occupancy Status	Ownership Model
Single-purpose court facility (non-encumbered)	<ul style="list-style-type: none">• State holds title and occupies all of the building
Joint-use building Title held by the county	<ul style="list-style-type: none">• County owns and enters into an agreement with the Judicial Council and local court for the use of space.• Court is entitled to use space indefinitely and rent-free as agreed in the MOU.
Joint-use building Title held by the state	<ul style="list-style-type: none">• State owns and enters into an agreement with the county for use of space.• County is entitled to use space indefinitely and rent-free as

agreed in MOU.

Joint-use building Shared title	<ul style="list-style-type: none">• Shared owners with shared responsibilities
Private landlord Single purpose or mixed-use	<ul style="list-style-type: none">• Title remains with owner. County and owner assign lease to the state. Court occupies building in accordance with terms of the lease.

Transition Schedule

The Task Force recommends that the transfer of responsibility for trial court facilities from the counties to the state be conducted according to the following schedule:

Table 4D
Proposed Timeline for Transition

Date	Activity
October 1, 2001	<ul style="list-style-type: none">• Task Force issues its final report.
October 2001 to September 2002	<ul style="list-style-type: none">• Bill is enacted transferring responsibility for trial court facilities to the state.• Initial transition funded.• Judicial Council develops long-term and transitional organizations.
July 2002 to January 2003	<ul style="list-style-type: none">• Judicial Council and local courts fill key staff positions in new facilities organization.
January 2003	<ul style="list-style-type: none">• Law transferring facilities responsibility to the courts takes effect.
January 2003 to December 2005	<ul style="list-style-type: none">• Negotiations between the Judicial Council and the counties occur.• Trial court facility responsibility transfers to state, county by county or facility by facility, in accordance with terms of the negotiated MOU.
January 1, 2006	<ul style="list-style-type: none">• Transfer of trial court facility responsibility to the state is completed.

Long-Term Recommendations

Responsibility

There are several state agencies that have direct responsibility for facilities, including the Department of Corrections, University of California, California State University, and the Department of General Services. Corrections and the universities are only responsible and accountable for facilities that directly support their primary mission. The Department of General Services' Real Estate Services Division is the only state agency whose principal mission is providing facilities and associated services to other state agencies. The Judicial Council currently relies on the Department of General Services to provide space for the Administrative Office of the Courts, the Supreme Court, and the District Courts of Appeal. The Judicial Council is responsible for appellate and trial court programs and operations, but currently has minimal in-house facility responsibility and capability.

There are two possible choices as to where to vest responsibility for trial court facilities should they transfer to the state: The Department of General Services' Real Estate Services Division, or the Judicial Council. Either agency would have to create capacity, hire staff, and develop policy and procedures for acquiring and managing trial court facilities.

Trial courts occupy 9.0 million USF of space in county-owned facilities. This equates to approximately 11.3 million gross square feet (GSF), which was estimated by adding a 25 percent adjustment factor to usable square feet for common space in the building, such as public lobbies, corridors, elevators, and restrooms. The courts also occupy 1.1 million USF of leased space. Most are in facilities shared with other county agencies. Trial court facilities are located in all 58 California counties, and range from small rural facilities to large multistory courthouses in urban cores. Currently, the Department of General Services is entirely responsible for 8.5 million GSF of state-owned facilities and provides selected services to another 12 million GSF. It also leases an additional 21 million rentable square feet of office facilities. Adding trial court facilities to the Department of General Services property portfolio would more than double the amount of owned facilities for which it would be wholly responsible. It would require a dramatic increase of both management and staff and, undoubtedly, a reorganization to reflect the unique nature and geographic distribution of trial court facilities. The courts would, by far, be their largest customer.

The Judicial Council currently has only ten staff members who develop facilities plans and represent the interests of Administrative Office of the Courts and the appellate courts with Real Estate Services Division. Like the Department of General Services, the Judicial Council and local courts would have to develop and staff a facilities organization and promulgate policy and procedure to assume the responsibility for trial court facilities. If facilities responsibility for trial courts were vested in the Judicial Council, it would be wholly responsible for trial court operations and the facilities that directly support court operations.

The Task Force recommends that the Judicial Council be given responsibility for all California court facilities, including trial court facilities. As a separate and coequal branch of state government, the judiciary maintains its autonomy and is wholly responsible for its programs and the infrastructure that supports them. Extending the Judicial Council's responsibility to court facilities recognizes the judicial branch's autonomy and makes it wholly responsible and accountable for the state's court system, including facilities. Additionally, the Judicial Council would have the authority to manage facility planning, acquisition, and management programs like other large state agencies.

The Task Force also recommends that the Judicial Council and local courts, with the advice and counsel of the state Departments of Finance and General Services, develop the organizational structure, staffing, and capacity necessary for transferring trial court facility responsibility, and for the long-term management of their court facilities. The Judicial Council should promulgate policy and procedures for ensuring that the courts have adequate and sufficient facilities, specifically establishing facilities planning, acquisition, operations, and maintenance programs. The planning process developed for court facilities should involve consultation and coordination with the counties and justice agencies.

Organizational Structure

Based on the broad concepts outlined in this section, the Judicial Council—working in cooperation with the Department of Finance, the Department of General Services, and the local trial courts—should develop long-term facility organizational and staffing needs. In so doing, it should consider:

- Which facility management functions are best handled centrally, regionally, or locally.
- The benefits of using in-house staff versus contracting with the counties, the Department of General Services, or other providers.
- That facilities planning, acquisition (e.g., design, land purchase, construction, leasing), and facility operations and maintenance will grow as facility responsibilities are transferred to the state, and will continue to grow as new facilities are built.
- How to build long-term organizational capacity while simultaneously carrying out one-time tasks necessary for the successful transition of responsibility for court facilities from the counties to the state.
- Establishing operating policy and procedures and adequately staffing both long-term and short-term activities critical for the successful transfer of facilities responsibilities.

The following table outlines recommended facility roles for the state, the Judicial Council, local trial courts, and counties under a new statewide court facility system.

Table 4E
Recommended Long-term Responsibilities for Statewide Court Facilities System

Entity	Responsibilities
Governor	<ul style="list-style-type: none"> • Propose budget • Approve budget
Legislature	<ul style="list-style-type: none"> • Review Governor's budget • Pass budget act
Department of Finance	<ul style="list-style-type: none"> • Review five-year court facility plans • Review proposed state-funded capital outlay projects • Develop proposals for inclusion in Governor's annual budget
Public Works Board	<ul style="list-style-type: none"> • Monitor and control funding for state capital outlay (construction) projects
Judicial Council	<ul style="list-style-type: none"> • Planning (strategic, master, and five-year capital facility planning) • Advocate facilities needs to state financial and legislative decision makers • Allocate approved funds • Facility development (including real property acquisition and disposal, project planning, design, and construction for renovated, expanded or new court facilities) • Facility management (operation/maintenance oversight, inspection, major repairs, space utilization management, legal, and administration) • Facility guidelines (including promulgation, updating, and enforcement) • Manage mixed-use facilities as required by MOU with the county • Capital asset program management – statewide • Review, prioritize, and approve facility proposals and prepare funding requests
Local court	<ul style="list-style-type: none"> • Facility management, operations and maintenance • Major maintenance and repairs, when approved by the Judicial Council • Assessment of local need • Siting recommendations • Minor capital improvements, within prescribed policies and procedures • Capital asset management – local
Shared – Judicial Council and local court	<ul style="list-style-type: none"> • Selecting and contracting for facility consultants • Architectural program and design review • Preparation of five-year capital facilities plan • Major maintenance
County	<ul style="list-style-type: none"> • Continue funding of non-rule 810 facilities maintenance-related expenses and costs through MOE with the state • Manage mixed-use facilities that do not transfer in accordance with the MOU • Siting recommendations for new court facilities • Provide facility services to local courts in accordance with the MOU (may be reimbursable to the county)

Budget Process Recommendations

Operation and maintenance funds are included in the Governor's annual support budget, which reflects needs submitted by the state agencies to the Department of Finance. Working from the Governor's budget, the Legislature appropriates money through the annual budget act. A similar process, the annual capital outlay budget, is used for funding construction projects. Both processes are very competitive because of the state's mandate to be prudent stewards of taxpayers' money and the fact that budget requests far exceed available funding. The Task Force recommends the following:

Capital Outlay

- Courthouse Construction Funds transferred to the state should be placed in an account dedicated to the capital facilities needs of the judicial branch.
- Court facility alteration, renovation, and construction projects that are not funded from Courthouse Construction Funds should be funded from the state General Fund.
- Projects funded by either courthouse construction or state general funds should follow the state's capital outlay budget process. Judicial Council responsibilities should include the following:
 - Planning capital facilities projects in consultation with the trial courts
 - Reviewing, prioritizing and approving projects
 - Preparing and submitting funding requests to the Department of Finance
 - Control over the design, bid, award, and construction of all capital facilities projects
- Capital outlay court facility projects should be subject to the State Public Works Board review and control, whether funded by Courthouse Construction Funds or State General Funds. The Task Force recommends that the Public Works Board be authorized to delegate— at its discretion— to the Judicial Council the review and approval of court facility projects.
- For minor capital outlay projects (less than \$400,000 each) the Judicial Council should submit a project list to the Department of Finance for inclusion in the Governor's budget. After funds are appropriated through the budget act, the Judicial Council should have the authority to allocate funds to courts for specific projects, with the flexibility to transfer funds between projects (provided the total authorized amount is not exceeded).
- The Judicial Council should also prescribe policies and procedures for the use of Courthouse Construction Funds that remain with the local court.

Operations, Maintenance, and Administration

- The principal source of funding for operations and maintenance of existing facilities should be county funds transferred to the state through MOE agreements. MOE funds should be transferred to the state and deposited into the state General Fund. Funds for operating, maintaining, and administering court facilities should be reallocated to the trial courts to establish their facilities budget base. Future increases to the facilities budget should be requested through the annual support budget process, and funded from the state General Fund. The Judicial Council

should review all facility operations funding requests in conjunction with other trial court operational needs.